IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M. SASIDHARAN NAMBIAR

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 22470 of 2006(Y)

AGAINST THE ORDER DATED 05/08/2006 IN EA. 327/06 IN EP.19/05 IN OS.157/2003 of ADDITIONAL MUNSIFF COURT -1, NEYYATTINKARA

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PETITIONER/ PETITIONER

S. K. SREEKUMAR,
GOVINDA MANDIRAM BUNGLOW, MARUTHOOR DESOM,
NEYYATTINKARA.

BY ADV. SRI. S.M. PREM
SMT. K.P. SANTHI

RESPONDENTS/ RESPONDENTS/DECREE HOLDER & JUDGMENT DEBTOR

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1. **PARUKUTTY AMMA SARASAMMA,**
   GOVINDA MANDIRAM BUNGLOW, MARUTHOOR,
   NEYYATTINKARA.

2. **PARUKUTTY AMMA LAKSHMI AMMA,**
   GOVINDA MANDIRAM BUNGLOW, MARUTHOOR DESOM,
   NEYYATTINKARA.

R1 BY ADV. SRI. R.S. KALKURA
R2 BY ADV. SMT. JAYASREE MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 22470 of 2006(Y)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF E.A. NO. 327 OF 2006 IN E.P. NO. 19 OF 2005 IN O.S. NO. 157 OF 2003 FILED BY THE PETITIONER BEFORE THE MUNSIFF COURT, NEYYATTINKARA.**
EXT. P2	**:**	**COPY OF THE ORDER DATED 29.05.2006 IN I.A. NO. 636 OF 2006 IN O.S. NO. 79 OF 2006 OF THE SUB COURT, NEYYATTINKARA.**
EXT. P3	**:**	**COPY OF THE PETITION AND THE MEDICAL CERTIFICATE PRODUCED BY THE PETITIONER BEFORE THE MUNSIFF COURT, NEYYATTINKARA.**
EXT. P4	**:**	**COPY OF THE ORDER DATED 05.08.2006 IN E.A. NO. 327 OF 2006 IN E. P. NO. 19 OF 2005 IN O.S. NO. 157 OF 2003 OF THE PRINCIPAL MUNSIFF COURT, NEYYATTINKARA.**

// TRUE COPY //

P.A. TO JUDGE.

smp

M. SASIDHARAN NAMBIAR, J.

W.P.(C) NO. 22470 OF 2006

Dated this the 22nd day of January, 2007.

J U D G M E N T

Under Exhibit P4 order in E.A. No. 327/06 in E.P. No. 19/2005, Additional Munsiff, Neyyattinkara dismissed the claim petition filed by petitioner stating that, petitioner did not appear even though case was posted for adducing evidence finally. The case of petitioner was that he had filed Ext. P3 application for adjournment of the case stating that he was laid up and was under the treatment of Dr.A.V. Bharathan and a medical certificate was also produced and in such circumstance, learned Munsiff should not have dismissed the application.

2. Learned counsel appearing for petitioner and first respondent-decree holder were heard.

Considering the fact that petitioner had produced a medical certificate showing the illness, learned Munsiff could have granted an opportunity to the petitioner to adduce evidence. Exhibit P4 order is therefore quashed. E.A. 327/2006 is remanded back to Additional Munsiff Court-1, Neyyattinkara for fresh disposal in accordance with law. Parties are directed to appear before the Executing Court on 15.02.2007. Petitioner shall get ready with the evidence and shall not

seek further adjournment. Learned Munsiff, Neyyattinkara is directed to dispose of E.A. 327/2006 as expeditiously as possible and at any rate within three months from date of appearance of the parties.

M. SASIDHARAN NAMBIAR, JUDGE.

smp